

Message Text

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E.O. 11652: N/A
TAGS: SHUM, UY
SUBJECT: URUGUAYAN CINC'S ISSUE PRESS COMMUNIQUE ON CONCLUSION
OF AMERICAN BAR ASSOCIATION (ABA) VISIT

1. FOLLOWING IS ENGLISH TRANSLATION OF FULL TEXT OF PRESS
COMMUNIQUE ISSUED BY THE COMMANDERS-IN-CHIEF OF THE
URUGUAYAN ARMED FORCES AT CONCLUSION OF AMERICAN BAR
ASSOCIATION (ABA) VISIT APRIL 7:

QUOTE: TODAY, IN A MEETING HELD WITH THE MEMBERS OF THE
JUNTA OF THE COMMANDERS-IN-CHIEF OF THE ARMED FORCES DR.
WILLIAM J. BUTLER AND DR. LUIS REQUE, REPRESENTATIVES OF
THE AMERICAN BAR ASSOCIATION AND OF THE BAR ASSOCIATION
OF THE CITY OF NEW YORK, PRESENTED A MEMORANDUM WITH
RECOMMENDATIONS WHICH, IN THEIR JUDGMENT AND IN ACCORDANCE
WITH THE OUTCOME OF THE DIVERSE MEETINGS THEY HELD, THEY
BELIEVE SHOULD BE ADOPTED BY THE GOVERNMENT OF URUGUAY.
THE SUBJECT MEMORANDUM STATES:

QTE. TO: HIGH OFFICIALS OF THE GOVERNMENT OF URUGUAY
WE ARE VERY GRATEFUL FOR THE RESPONSE OF THE GOVERNMENT
OF URUGUAY TO THE REQUEST OF THE UNITED STATES LEGAL COMMUNITY
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FOR AN OPPORTUNITY TO COMMENCE A DIALOGUE WITH REPRESENTATIVES
OF THE GOVERNMENT CONCERNING THE PROTECTION OF THE RULE OF
LAW, AN INDEPENDENT LEGAL PROFESSION AND AN INDEPENDENT
JUDICIARY IN URUGUAY.

WE ARE MINDFUL OF THE FACT THAT FOR MANY YEARS URUGUAY
HAS SUSTAINED A PARLIAMENTARY DEMOCRACY GRANTING TO ITS PEOPLE
FULL POLITICAL FREEDOM AND THE PROGRESSIVE BENEFITS OF A MODERN

STATE. ITS EXPERIENCES HAVE BEEN A MODEL FOR LATIN AMERICA AND THE WORLD.

WE ARE ALSO MINDFUL OF THE SUBSTANTIAL AND SIGNIFICANT CONTRIBUTION MADE BY URUGUAY TO THE DEVELOPMENT OF INTERNATIONAL AND REGIONAL INSTITUTIONS OF HUMAN RIGHTS; ITS SUPPORT OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS OF THE U.N. AND ITS RATIFICATION OF THE UNITED NATIONS COVENANT ON CIVIL AND POLITICAL RIGHTS, AND THE PROTOCOL THERETO ON JULY 11, 1969; ITS PARTICIPATION IN THE EARLY DRAFTING OF THE AMERICAN CONVENTION ON HUMAN RIGHTS AT SAN JOSE, COSTA RICA IN 1969 AND ITS SUBSEQUENT SIGNING OF THIS HISTORIC DOCUMENT.

WE ARE MINDFUL OF THE NEED IN APRIL OF 1972 FOR EMERGENCY LEGISLATION TO PROTECT THE SECURITY OF THE URUGUAYAN STATE, WHOSE LIFE WAS DIRECTLY THREATENED BY EXTREMIST ELEMENTS SEEKING TO DESTROY THE DEMOCRATIC PROCESSES SO LONG CHERISHED BY THE URUGUAYAN PEOPLE.

WE ARE PLEASED TO HAVE BEEN INFORMED BY THE HIGHEST AUTHORITIES OF URUGUAY THAT THIS THREAT TO THE NATION HAS SUBSIDED TO THE POINT WHERE IT IS NOW THE AVOWED POLICY OF THE GOVERNMENT, AS SET FORTH IN ITS ANNOUNCED DECISION IN AUGUST OF 1977, WHICH BEGAN AN ORDERLY TRANSITION AND RETURN TO NORMALCY AND TO THE DEMOCRATIC PROCESS.

AS LAWYERS, WE ARE CONCERNED WITH THE ADMINISTRATION OF JUSTICE IN ACCORDANCE WITH THE UNIVERSALLY ACCEPTED STANDARDS OF CIVILIZED NATIONS AS GENERALLY DESCRIBED IN THE INTERNATIONAL AND REGIONAL DOCUMENTS AND INSTRUMENTS UNCLASSIFIED

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DESCRIBED ABOVE AND TO WHICH THE URUGUAYAN GOVERNMENT HAS PLEDGED ITS WHOLEHEARTED SUPPORT.

ACCORDINGLY, WE WOULD LIKE RESPECTFULLY AND HUMBLY TO SUBMIT THAT, CONSISTENT WITH THE SECURITY OF THE STATE AND PURSUANT TO THE GOVERNMENT'S ANNOUNCED INTENTION TO RETURN TO NORMALCY AFTER THE INTERNAL CRISIS, THE FOLLOWING STEPS SHOULD BE CONSIDERED TO EXPEDITE AND IMPLEMENT THIS DECISION, AND THEREBY ENHANCE THE RESPECT FOR URUGUAY OF THE INTERNATIONAL COMMUNITY.

I. TREATMENT OF DETAINEES

1. WE RECOMMEND THAT THE GOVERNMENT REAFFIRM ITS INTENTION TO COMPLY WITH THE PROVISIONS OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS WHICH IT SIGNED ON JULY 11, 1969.

2. WE ESPECIALLY URGE THAT THE GOVERNMENT AGAIN PLEDGE ITS ADHERENCE TO THE PROVISIONS OF ARTICLE 9 RELATING TO THE TREATMENT OF DETAINEES AND TO ARTICLE 7 WHICH PROVIDED THAT, "NO ONE SHALL BE SUBJECT TO TORTURE OR TO CRUEL, INHUMAN OR DEGRADING TREATMENT OF PUNISHMENT."

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3. CONSISTENT WITH THIS REDEDICATION OF THE
GOVERNMENT TO THE PRINCIPLES OF THE INTERNATIONAL COVENANT,
WE REQUEST THAT STRICT ORDERS BE ISSUED TO ALL ARRESTING
AND DETAINING AUTHORITIES TO THE EFFECT THAT SEVERE PENALTIES
SHALL BE IMPOSED FOR ANY VIOLATION OF THESE INSTRUCTIONS.

II MILITARY LEGAL JURISDICTION OVER CIVILIANS

1. WE RECOMMEND THE EARLY TRANSFER TO CIVILIAN COURTS
OF THE JURISDICTION PREVIOUSLY GIVEN TO MILITARY TRIBUNALS
OVER CRIMES COMMITTED BY CIVILIANS RELATED TO THE SECURITY
OF THE STATE.

2. SPECIFICALLY WE WOULD HOPE THAT:

A. ALL DETAINEES NOT PRESENTLY CHARGE CAN BE
RELEASED.

B. A THOROUGH REVIEW WILL BE GIVEN TO ALL
SECURITY-RELATED CASES PRESENTLY PENDING IN THE FIRST STAGE
OF INSTRUCTION WITH A VIEW TO DISMISSING THOSE MATTERS WHERE
THE EVIDENCE DOES NOT MEET THE BURDEN OF A PRIMA FACIE CASE.

C. THE TREND OF RELEASING FROM PRISON PERSONS
NOT DIRECTLY INVOLVED IN SUBVERSIVE ACTIVITIES WILL CONTINUE,
WITH THE GOAL OF AT LEAST FIVE HUNDRED SUCH RELEASES,
CONSISTENT WITH THE SECURITY OF THE STATE, WITHIN THE NEXT
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EIGHT MONTHS. (WE NOTE THAT WE HAVE BEEN INFORMED BY THE

PRESIDENT OF THE SUPREME MILITARY TRIBUNAL OF THE RELEASE DURING 1977 OF FOUR HUNDRED SUCH PERSONS AND THE RELEASE OF ONE HUNDRED ADDITIONAL PERSONS BETWEEN JANUARY 1 AND MARCH 28, 1978.)

D. THE GOVERNMENT WILL RECONSIDER THE PRESENT UTILIZATION OF ARTICLE 168, PARA. 17 OF THE 1967 CONSTITUTION ("PROMPT SECURITY MEASURES"), IN ORDER TO FURTHER PROTECT THE RIGHT TO HABEAS CORPUS AND THE FREEDOM OF THE CITIZEN FROM ARBITRARY ARREST OR DETENTION.

3. STEPS WILL BE TAKEN IMMEDIATELY TO TRANSFER AS MANY CASES AS POSSIBLE TO CIVILIAN COURTS AND FUTURE CASES WILL BE REFERRED INITIALLY TO A NON-MILITARY JURISDICTION.

III INDEPENDENCE OF THE JUDICIARY AND THE LEGAL PROFESSION

1. WE WOULD REQUEST THAT THE CASES INVOLVING THE ARREST AND DETENTION OF LAWYERS, WHERE IT APPEARS THAT THE DETAINEE OR DEFENDANT WAS CARRYING OUT HIS PROFESSIONAL OBLIGATIONS TO HIS CLIENT AND WAS NOT DIRECTLY INVOLVED IN SUBVERSIVE ACTIVITIES, SHOULD BE DISMISSED AND THE RIGHT TO PRACTICE LAW FREELY BE RESTORED. THIS PRINCIPLE SHOULD APPLY INITIALLY, AT LEAST, TO THE CASES OF DRS. RODOLFO SCHURMANN PACHECO, JUAN JOSE FRAGA AMOROSO, HUGO FABRI AND EMILIO BIASCO.

2. AT PRESENT, WE FIND OURSELVES IN GENERAL AGREE-
MENT WITH THE COMMENT OF THE BAR ASSOCIATION OF URUGUAY REQUESTING "A RADICAL RECONSIDERATION OF THE SOLUTIONS CONTAINED IN INSTITUTIONAL ACT NO. 8" WHICH PURPORTS TO AMEND THE CONSTITUTION OF 1967 IN THAT IT SUBORDINATES ALL JUDICIAL ORGANS TO THE EXECUTIVE. IN PARTICULAR, WE WOULD REQUEST THAT A DIALOGUE CONTINUE AS TO THE WISDOM AND DESIRABILITY OF THE FOLLOWING:

A. ARTICLES 10, 42 AND 48 RELATING TO THE
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REMOVAL OF JUDGES;

B. ARTICLE 18 RELATING TO THE EXPANDED JURISDICTION OF THE MILITARY JUSTICE SYSTEM;

C. THE UNDERLYING PRINCIPLE OF CONTROL OF THE JUDICIARY BY THE EXECUTIVE.

IV THE LAW FACULTY

IN THE RETURN TO NORMALCY, AN INDISPENSABLE INGREDIENT IN THIS ADMINISTRATION OF JUSTICE IS TO THE DUTY AND THE OBLIGATION OF THE LAW FACULTY TO FREELY DISCUSS LEGAL MATTERS WITH THEIR STUDENTS. PROFESSORS OF LAW MUST BE FREE FROM POLITICAL INTERFERENCE IF THEY ARE TO CARRY OUT THEIR RESPONSIBILITY TO TEACH AND PURSUE RESEARCH IN THE SCIENCE OF JURISPRUDENCE. THIS TRADITION, SACRED TO THE URUGUAYAN APPROACH TO EDUCATION, MUST BE MAINTAINED, AND STUDENTS AND

FACULTY MUST ALWAYS BE ALLOWED TO PURSUE ACADEMIC GOALS FREELY.

SHOULD THE GOVERNMENT BE RECEPTIVE TO THESE INITIAL
SUGGESTIONS, WE WOULD RECOMMEND THAT OUR ORGANIZATION AND
OTHER APPROPRIATE LOCAL AND INTERNATIONAL FORUMS BE INFORMED
OF THESE DEVELOPMENTS.

WE STAND READY TO ASSIST, IN A MUTUALLY ACCEPTABLE
WAY, IF REQUESTED BY THE URUGUAYAN GOVERNMENT, IN THE
IMPLEMENTATION OF ITS DECISIONS DURING THE TRANSITION PERIOD.

RESPECTFULLY SUBMITTED,

S/ WILLIAM J. BUTLER

S/ LUIS REQUE UNQUOTE

2. FULL EMBASSY REPORT ON ABA VISIT AND ANALYSIS

FOLLOWS BY SEPTTEL.

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